

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)	
)	
Applications and Request for Waiver)	DA- 08-125
of the County of Los Angeles)	FCC File Nos. 0002981309
		<i>et al.</i>

**COMMENTS OF THE
NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these Reply Comments addressing the application and waiver request of the County of Los Angeles.¹ Los Angeles County has applied to use channels that are designated in the broadcast service but are not currently licensed. It asks the Commission for a waiver of its rules so it can operate a public safety communications system using these channels. Los Angeles County seeks a waiver pursuant to Section 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 337(c) (section 337(c)) and/or the general waiver policy under Section 1.925 of the Commission's rules.

NPSTC urges the Commission, in considering waiver applications, including those under section 337(c), to comprehend that the 700 MHz band does not by itself satisfy local, county, tribal and state public safety communications needs. The circumstances Los Angeles County faces reflect the continued challenged environment

¹ In the Matter of the Applications and Waiver Requests of the County of Los Angeles, *Public Notice*, DA 08-125, File Nos. 0002981309 (January 17, 2008).

emergency response communications face in most metropolitan areas. Access to channels not currently in use and allocated to commercial services remains a crucial resource to improve public safety communications. To do otherwise will preclude an established and important path that has assisted numerous agencies. It will also undermine the national priority to improve region wide interoperability. Los Angeles County's waiver request and applications should be granted. It reflects the reasoned balance of the competing interests at stake.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council is a federation of public safety organizations dedicated to improving emergency service communications. It has participated throughout the Commission's examination of the 700 MHz band and in other proceedings addressing public safety. Its member organizations and those who participate in its deliberations have plenary responsibility for the range of emergency communications networks dedicated to Public Protection and Disaster Recovery.

NPSTC pursues a role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementing the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety agencies, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety communications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 15 organizations participate in NPSTC:

American Association of State Highway and Transportation Officials

American Radio Relay League

Association of Fish and Wildlife Agencies

Association of Public-Safety Communications Officials-International

Forestry Conservation Communications Association

International Association of Chiefs of Police

International Association of Emergency Managers

International Association of Fire Chiefs

International Municipal Signal Association

National Association of State Chief Information Officers

National Association of State Emergency Medical Services Officials

National Association of State Foresters

National Association of State Telecommunications Directors

National Emergency Number Association

National Sheriffs' Association

Several federal agencies are liaison members of NPSTC. These include the Department of Agriculture, Department of Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office of Interoperability and Compatibility and the SAFECOM Program), Department of Commerce (National Telecommunications and Information Administration), Department of the Interior, and the Department of Justice (National Institute of Justice, CommTech

Program). NPSTC also has a liaison relationship with the Telecommunications Industry Association.

The Los Angeles County Application

Los Angeles County seeks a waiver to use all frequencies in the television (TV) channel 15 band (476-482 MHz) for public safety communications. It states that use of these frequencies is necessary due to the lack of available UHF public safety frequencies in the Los Angeles metropolitan area. The County is planning a single-platform, UHF voice radio system that will replace existing disparate systems. The County notes that frequencies in the TV channel 15 band are ideal because the band is immediately adjacent to TV channels 14 and 16, which are already allocated to land mobile operations in the Los Angeles area. It states that the requested frequencies would provide seamless coverage across the county and would be compatible with existing UHF radio infrastructure

The channels at stake present core public safety communications capability in the UHF band. The Commission has approved several waivers in these bands enabling individual public safety agencies to construct and deploy much improved systems. The waivers have increased redundancy, promoted ubiquitous coverage, improved communications and expanded interoperability, particularly in metropolitan areas where UHF operations are prominent. The Commission's work under section 337(c) is a tangible demonstration of how its commitment and decisions have resulted in enhancing public safety communications and promoting interoperability.

In its *Public Notice*, the Commission inquires whether its analysis under section 337 and its general waiver criteria should be affected by the 700 MHz public safety band

and whether this band provides agencies a viable alternative. It cites the contentions of the opposing broadcast interest claiming that to allocate channel 15 to public safety communications “would disrupt the Commission’s careful balance of policy concerns to the detriment of broadcast interests.” The Commission emphasizes the approaching February 17, 2009 digital television transition date when analog television broadcast operations must cease and recent actions to facilitate a nationwide, interoperable public safety network.²

A more discrete issue is also presented by Los Angeles County’s waiver request and the potential availability of 700 MHz channels. Under the Wireless Telecommunications Bureau and now the Public Safety and Homeland Security Bureau’s decisions implementing section 337(c), an agency must demonstrate there are no channels available in any public safety band.³

Two comments were filed by a broadcast interest objecting to Los Angeles County’s application waiver.⁴ NPSTC takes no position with regard to contentions that the proposed operations will challenge adjacent channel broadcast operations.

The 700 MHz Band Will Not Satisfy Public Safety Spectrum Needs

NPSTC believes that channels in the UHF and VHF bands must continue to be available for public safety under the Commission’s waiver processes, including those established by its decisions under section 337(c). Los Angeles and other applicants must be able to continue to pursue channels in the non public safety bands prior to and subsequent to the analog broadcast transition in February 2009.

² *Public Notice* at page 2.

³ *Public Notice* at page 2.

⁴ Comment of Extravision Holding, LLC, dated October 29, 2007 and August 14, 2007.

Los Angeles County's a waiver request to use channel 15 includes an extensive technical analysis addressing adjacent broadcast interests and agencies operating on channels 14 and 15. With regard to the latter, the analysis reflects the important contribution section 337(c) and the Commission's waiver policy has made to public safety communications. Waiver decisions allowing emergency services access to UHF channels have provided an immeasurable contribution to improved response and more efficient use of the spectrum.

The 24 MHz of the 700 MHz band dedicated to public safety is an important contribution to the communications demands agencies face. The Commission and interested parties have expended enormous effort, including preparing and reviewing extensive technical analysis, to forge a critical opportunity for public safety. The recent decision to designate 10 MHz for broadband communications within this allocation presents real potential for access to robust advanced services.

Yet, the Commission's suggestion, and the broadcast interest advocacy, to deny access to channels otherwise available on the premise that 700 MHz will satisfy the needs of public safety is wrong. The 700 MHz band will not approach fulfilling public safety's wireless requirements, particularly in regions similar to the Los Angeles metropolitan area. These areas are extremely congested with demand far exceeding capacity. The lack of investment in modern communications, in the heavily populated metropolitan areas of the country, is attributable more to the lack of spectrum than to lack of funding. The number of agencies in the metropolitan areas needing channels and the number of channels needed far exceed the availability, even if the 700 MHz narrowband voice channels were available today.

Contrary to the contention of the broadcast interest, channel 15 in the Los Angeles area is an unassigned channel and meets the standard of section 337(c) to be available. There is no information of any application by a broadcast interest to use the channel nor has the Commission reserved it for such. The proper balance of the public interest is what is at stake in this proceeding. NPSTC believes that the balance must weigh on the side of improving emergency service communications as compared to fulfilling the objectives of Class A and low power television broadcasters.

Los Angeles County details the breath of demands imposed on emergency response in the region. That disparate systems hinder response is well documented in the Commission's proceedings. NPSTC can state unequivocally that the Los Angeles Metropolitan area, like the New York Metropolitan area, will not have adequate spectrum subsequent to when the 700 MHz channels become available.

Any realistic evaluation of spectrum perceived to be available to public safety must also be measured by the realities of the process by which channels will be assigned. There is no assurance that the 700 MHz band will satisfy each agency's requirements, no credible public safety interest has ever suggested such. The regional plan process where narrowband channels will be assigned to local agencies involves technical evaluation, coordination within and across regions, accommodation among agencies and dispute resolution. Until 700 MHz channels are available for assignment, assertions that 700 MHz will meet public safety's requirements in a particular area must be rejected.

The Commission has moved forcefully to implement its 700 MHz narrowband relocation plan and in promoting efforts by the 700 MHz regional planning committees to expedite this process. While important, the likely scenario is that the overwhelming

number of 700 MHz narrowband channels will not be available until sometime subsequent to February 19, 2009. Only then should the 700 MHz band be considered an element in the waiver process.

The Commission's recent summary of the DTV transition presents not insignificant challenges to clearing the 700 MHz band by February 2009 so that channels can be assigned.⁵ There is also the justified reluctance of state and local governments to commit to financing a new communications system until channels are actually available, not simply when the spectrum is cleared of analog broadcasters. Agencies such as Los Angeles County should be afforded the opportunity to demonstrate the technical and other requirements of section 337(c) without regard to the possibility that the 700 MHz band may at some later time provide channels.

Los Angeles County's waiver request also demonstrates why the Commission should reexamine its decisions that a section 337(c) waiver is contingent upon an agency showing the lack of channels in all public safety bands.⁶ Such a policy undermines interoperability. Los Angeles County shows the enormous investment commitment by local governments in the UHF Band in the region and why its proposal to use channel 15 and integrate it with these systems is an efficient and effective extension. To do otherwise confounds reason.

A policy conditioning section 337(c) waiver relief on the lack of alternatives in other public safety bands ignores that in many areas emergency service communications are predominant in a particular band. Since the September 11, 2001 attacks the need for

⁵ Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Report and Order*, MB Docket No. 07-9, FCC 07-228 (December 31, 2007).

⁶ In re Ohio, *Order*, 17 FCC Rcd 439, DA 01-3035 (June 7, 2002) and In re State of Tennessee Department of Transportation, *Order on Reconsideration*, 16 FCC Rcd 24645, DA 00-2803 (December 13, 2000).

interoperable communications across agencies and jurisdictions moved to a national priority. Compatible systems operating within the same band present significant cost and other efficiencies for interoperability. Precluding applications under section 337(c) because channels are available elsewhere dilutes this crucial objective.

Conclusion

Agencies such as Los Angeles County that are pursuing a waiver under section 337(c) or the Commission's own rules seek to deploy improved communications systems now. While the 700 MHz band will offer meaningful relief, its assistance to the individual agency cannot be determined until the channels become available and capable of being assigned. The Commission should not preclude access to channels outside the public safety services that are unassigned. The need to improve Public Protection and Disaster Protection communications cannot be halted. Access by agencies to channels in the commercial services that are not licensed remains critical. Los Angeles County's applications and waiver request should be granted.

Respectfully submitted,

Signed

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The foregoing Comments of the National Public Safety Telecommunications Council were filed on February 7, 2008 with the Commission's Secretary at its offsite facility. A copy was provided to the following individuals via the US Mail:

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